

DOCKET NO.: CV-14-6025333-S : **COMPLEX DOCKET**

ROBIN SHERWOOD and
GREG HOELSCHER : **J.D. OF WATERBURY**

V. : **AT WATERBURY**

STAMFORD HEALTH SYSTEM, INC.
D/B/A STAMFORD HOSPITAL : **June 1, 2015**

**DEFENDANT STAMFORD HOSPITAL'S
ANSWER AND SPECIAL DEFENSES TO COMPLAINT**

The defendant, Stamford Health System, Inc., d/b/a Stamford Hospital (hereinafter "Stamford Hospital"), hereby responds to the plaintiff's Complaint dated August 13, 2014 as follows:

FIRST COUNT:

1. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 and, therefore, leaves plaintiff to her proof.

2. The defendant admits that, Stamford Health System, Inc., d/b/a Stamford Hospital is a hospital located at 30 Shelburne Road, Stamford, Connecticut 06902. The remaining allegations of Paragraph 2 are denied.

3. Denied.

4. Denied.

**II. BACKGROUND OF PELVIC MESH PRODUCTS SOLD, DISTRIBUTED
AND/OR MANUFACTURED BY THE DEFENDANT STAMFORD HOSPITAL**

A. Johnson & Johnson

5. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 and, therefore, leaves plaintiff to her proof.

6. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 and, therefore, leaves plaintiff to her proof.

7. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 and, therefore, leaves plaintiff to her proof.

8. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 and, therefore, leaves plaintiff to her proof. The defendant notes that the paragraph is nonsensical because none of these entities are defendants in this case even though they have been labeled as defendants.

9. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 and, therefore, leaves plaintiff to her proof.

10. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 and, therefore, leaves plaintiff to her proof.

11. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 and, therefore, leaves plaintiff to her proof.

12. The defendant denies that Johnson & Johnson/Ethicon marketed Prolift without clearance or approval from the FDA. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the balance of the allegations set forth in paragraph 12 and, therefore, leaves plaintiff to her proof.

13. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 and, therefore, leaves plaintiff to her proof.

14. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 and, therefore, leaves plaintiff to her proof.

15. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 and, therefore, leaves plaintiff to her proof.

16. The defendant denies the allegations set forth in paragraph 16.

17. The defendant denies the allegations in paragraph 17.

18. Paragraph 18 labels certain terms and collectively defines them so no response is required. To the extent a response is required, the defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 and, therefore, leaves plaintiff to her proof.

B. AMS

19. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19 and, therefore, leaves plaintiff to her proof.

20. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 and, therefore, leaves plaintiff to her proof.

21. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 and, therefore, leaves plaintiff to her proof.

C. STAMFORD HOSPITAL

22. The defendant denies the allegations in paragraph 22 and avers that under Connecticut Product Liability Act, including the section plaintiff cites in paragraph 22, Stanford Hospital cannot be a “Product Seller” for a medical device that is implanted during a patient’s surgery in one of its operating rooms.

23. Denied.

24. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24 and, therefore, leaves plaintiff to her proof.

25. Denied.

26. Denied. Stanford Hospital avers that plaintiff has mischaracterized FDA regulations.

27. Denied.

28. Denied.

29. Denied

III. FACTUAL BACKGROUND

30. Denied.

31. Denied.

32. Denied.

33. The defendant denies the allegations in paragraph 33. With respect to the allegations regarding a “study” in paragraph 33, the defendant lacks knowledge or information sufficient to form a belief as to the truth of these allegations and, therefore, leaves plaintiff to her proof.

34. Denied.

35. Denied.

36. Denied except that Stamford Hospital admits that the FDA issued notices regarding this type of product in 2008 and 2010, which speak for themselves.

37. The defendant admits that on October 20, 2008, the Food and Drug Administration (“FDA”) issued a Public Health Notification, which speaks for itself. With

regard to the remainder of Paragraph 37, defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, leaves plaintiff to her proof.

38. Denied.

39. Denied.

40. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 40 and, therefore, leaves plaintiff to her proof.

41. With regard to the allegations in Paragraph 41, the defendant lacks knowledge or information sufficient to form a belief as to the truth of these allegations, namely whether on a worldwide bases the “Defendant’s Pelvic Mesh Products,” most of which were not even used in Ms. Sherwood’s surgery, “were at all times utilized and implanted in a manner foreseeable to the Defendant” and the defendant, therefore, leaves plaintiff to her proof.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. The defendant denies that any act or omission on its part caused any injuries to plaintiff. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 48 and, therefore, leaves plaintiff to her proof.

49. The defendant denies that any act or omission on its part caused any injuries to plaintiff. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 49 and, therefore, leaves plaintiff to her proof.

50. The defendant denies that any act or omission on its part caused any injuries to plaintiff. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 50 and, therefore, leaves plaintiff to her proof.

51. The defendant denies that any act or omission on its part caused any injuries to plaintiff. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 51 and, therefore, leaves plaintiff to her proof.

52. The defendant denies that any act or omission on its part caused any injuries to plaintiff. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 52 and, therefore, leaves plaintiff to her proof.

53. Denied.

54. Denied.

55. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 55 and, therefore, leaves plaintiff to her proof.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. The defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 60 and, therefore, leaves plaintiff to her proof.

61-81. The allegations contained in Paragraphs 61-81 are denied.

FIRST SPECIAL DEFENSE

1. Plaintiff's claims against Stamford Hospital are barred by the applicable statute of limitations as the surgery allegedly occurred in 2006 and this action was commenced at the end of 2014.

2. Plaintiff's claims are barred by the doctrine of laches.

3. Plaintiff's claims are barred because she has engaged in impermissible claim splitting by maintaining actions for the same relief in two different lawsuits.

4. Plaintiff's claims are barred by the doctrine of waiver in that she already commenced an action against the product manufacturer and elected not to pursue Stamford Hospital in that action.

**THE DEFENDANT,
STAMFORD HEALTH SYSTEMS, INC.,
D/B/A STAMFORD HOSPITAL**

/s/ Simon I. Allentuch
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CERTIFICATION

THIS IS TO CERTIFY THAT a copy of the foregoing was emailed this 1st day of June,
2015, to the following counsel:

Brenden P. Leydon, Esq.
Jackie Fusco, Esq.
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/s/ Simon I. Allentuch
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